SOUTH CAROLINA WATER QUALITY ASSOCIATION

COMMENTS ON NOTICE OF DRAFTING

TRIENNIAL REVIEW OF WATER QUALITY STANDARDS

February 26, 2007

The South Carolina Water Quality Association represents owners and operators of publicly-owned treatment works statewide. We offer the following proposed revisions to the current water quality standards regulations for consideration by DHEC during this triennial review of the standards regulation.

I. Scoping Issues Identified by the Department

New/Updated Priority Pollutants

The WQA supports the proposal to review and adopt additional pollutants for which U.S. EPA has developed water quality criteria since the South Carolina standards regulation was last updated. However, we urge the Department to identify in any subsequent proposal which, if any, of the new/updated criteria may be expected to have a particularly significant impact on regulated entities. That will facilitate our review of these highly-technical criteria. We also urge the Department to ensure that any new/updated criteria are based on good science.

Review of Bacteriological Indicator for Protection of Recreational Uses.

The WQA supports a move away from using a single sample value to assess whether recreational waters are meeting recreational standards. EPA and most other State NPDES agencies do not use single sample results to assess recreational fitness. While single sample numbers may be appropriate as a screening/advisory tool in the context of bathing beach management, the geometric mean is really the appropriate measure for assessing recreational suitability.

Site-specific DO Standard for the Savannah River.

The WQA supports DHEC's proposal to evaluate a site-specific DO standard for the Savannah River. This should have been done a long time ago and certainly before EPA's recent TMDL. This is a compelling example of why designated uses and associate water quality criteria should be refined before or certainly along with TMDL development. The development, including public input, of the Savannah River TMDL around a DO standard that is undisputedly not appropriate is a significant waste of public and private resources that should be avoided with future TMDLs. The Savannah River is also an example of water bodies that have been assigned classifications that simply can't be met. DHEC should proactively seek to address impaired waters ahead of TMDL development to ensure appropriate designated uses and criteria are in place before TMDLs are developed.

II. SC WQA Scoping Comments

In addition to the list of issues which the Department intends to address during the triennial review, we urge the Department to also reevaluate the following provisions:

Fecal Coliform

The Department should revise 61-68(G)(9)(f) to remove the provision calling for five consecutive fecal samples in a 30-day period. We believe this is a clerical error in that EPA's fecal standard calls for five samples over a 30-day period. We note the entero standard calls for four samples over a 30-day period. A five consecutive sample requirement makes no sense in relation to a 30-day standard as we end up converting the 30-day standard to a five-day standard if we sample five consecutive days. In order to implement the 30-day standard, the sampling requirement should be a minimum of five samples during the 30-day period.

Enterococcus

DHEC should follow U.S. EPA's recent guidance regarding the use of EPA's 1986 enterococcus standard. That guidance explains that the intended level of protection is that conveyed by the monthly geometric mean. The single sample maximum (upper percentile value) was never intended to provide additional level of protection. EPA's guidance provides an example that imposing the 104 mpn entero value as a single sample maximum will effectively reduce the monthly geometric mean from 35 to 2. Put another way, according to EPA's guidance, a discharger would have to have a monthly geometric mean of 2 in order to ensure no single sample is greater than 104.

EPA reminds states in its guidance that they can use only the geometric mean for both permitting and water quality assessment purposes. That is exactly what the Department should do. Accordingly, we urge the Department to clarify in the standards regulation that only the geometric mean will be used for NPDES permitting and water quality assessment purposes while the geometric mean and upper percentile values will be used in the context of bathing beaches to inform beach management decisions.

In Section E.14(c) the Department should correct the fecal coliform standard for shellfish to add that no more than ten percent of the monthly samples can exceed 43 mpn. Not only will this make the implementation consistent with the Standard in this regulation, but it will also make it consistent with the shellfish regulations found at R. 61-47 ("For waters sampled under adverse pollution conditions, the median fecal coliform Most Probable Number (MPN) or the geometric mean MPN shall not exceed fourteen per one hundred milliliters, and not more than ten percent of the samples shall exceed a fecal coliform MPN of forty-three per one hundred milliliters (per five tube decimal dilution). 61-47.B.3").

Critical Conditions for Discharge Permitting.

We believe the Department should clarify the flexibility to use flow-based and other permitting strategies that better reflect actual discharge conditions rather than assumed worst-case scenarios that never occur.

- For example, we recommend for saltwater discharges that the Department consider using the lowest average daily flow in receiving stream (average between high tide and low tide).
- For stormwater discharges, we recommend using actual flow in receiving stream in lieu of the 7Q10.

Anitdegradation

We think the Department should establish a "safe harbor" for expansions of public facilities that have (1) gone through Council of Governments review and approval and (2) would not increase pollutants by more than 25 percent of the remaining assimilative capacity of the stream in question.

0.1 Rule

We think the Department should make clear that the 0.1 rule only applies when a stream actually experiences low DO. Where there are adequate data to delineate the period of naturally low DO levels, the Department should use those data to establish the chronological boundaries in which the rule will apply.

Where data are invalid an/or lacking, DHEC should use the best available data/models to establish the chronological period during the year when the 0.1 Rule will be applied.

Ambient Biological Testing.

Section E.15 authorizes the Department to request ambient biological testing from regulated entities. This testing is expensive and typically shows that the discharger is not having an impact on the stream in question. In other cases, the testing is inconclusive despite being repeated for many years. Accordingly, we believe some reasonable limitation should be put on this testing. For example, after an initial period of annual testing, the frequency of testing should be reduced or eliminated altogether unless there is a compelling reason to believe the discharge is impacting the stream.

Discharges to Unclassified Waters.

We believe the rule that unclassified waters take on the classification of down stream waters should be modified such that discharges to unclassified waters should not interfere with downstream designated uses and criteria. This approach will ensure full protection for downstream waters while not imposing unnecessarily stringent requirements at the point of discharge to upstream unclassified waters.

EPA Criteria

We recommend that Section E.14 be revised. It currently provides:

"The numeric criteria developed and published by EPA are hereby incorporated into this regulation."

It should be changed to be consistent with Section 14(5) which specifies that: "The Department shall review new or revised EPA criteria for adoption by South Carolina when published in final form."

New Waterbody Classifications

We urge the Department to consider additional water classifications such as "Swamp Waters" and "urban streams" that would be available for the Department to then customize water quality criteria to better reflect the real world condition of these water resources.

Whole Effluent Toxicity Testing Methods

E.14.c(10) provides currently that any alternate WET testing species or methodology "shall be approved by the EPA". We recommend that you change this to "shall be proposed in an NPDES permit." That will allow public participation and EPA to object. This is a better approach than requiring EPA approval when EPA is not required to provide its approval and/or simply may not act otherwise. Same comment for the top of 22.

Outstanding National Resource Waters

The ONRW Section specifies that no new or increased sources of pollution are allowed. We think this should be refined to require no measurable change in water quality instead of the current "none allowed." We think our suggested language is more in line with reality when one considers things like storm water discharges. This language will also ensure that we do not prevent a new discharge that will achieve a NET IMPROVEMENT to an ONRW stream as compared to current discharges. The current language could be misinterpreted to prevent a new facility from consolidating three existing facilities in an ONRW watershed with the result of 50 percent lower pollution loadings just because the new facility would be a "new" discharger.

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